

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Dwight Stewart**
Docket No. **275507**
L.C. No. **04-501418-FH**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal filed January 11, 2007, is DISMISSED for lack of jurisdiction because the application was not filed within 12 months of the judgment of sentence, nor was the motion for resentencing that was denied by the trial court as untimely filed within 12 months of the judgment of sentence as was required in 2005. The trial court did not decide the motion as a motion for relief from judgment, nor did the trial court even review the merits of the motion regardless of the title placed on the motion. This dismissal is without prejudice to filing a correctly titled motion for relief from judgment in the trial court and then if that motion is denied, an application for leave to appeal in the Court of Appeals.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 14 2007

Date

Sandra Schultz Mengel
Chief Clerk